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*Attorneys for Axis Reinsurance Company*

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

	----- X
In re	: Chapter 11
REFCO, INC., et al.,	: Case No. 05-60006 (RDD)
Debtors.	: Jointly Administered
	: ----- X
AXIS REINSURANCE COMPANY,	: Plaintiff, v. Defendants.
	: ----- X
TONE N. GRANT, et al.,	: Plaintiffs, v. Defendant.
	: ----- X
AXIS REINSURANCE COMPANY,	: X

LEO R. BREITMAN, et al.,	:	
	:	
Plaintiffs,	:	
v.	:	Adv. Proc. No. 07-2032-rdd
AXIS REINSURANCE COMPANY,	:	
	:	
Defendant.	:	
	:	
	x	

**DESIGNATION OF ITEMS IN RECORD ON  
APPEAL AND STATEMENT OF ISSUES PRESENTED**

Axis Reinsurance Company (“Axis”), the Appellant on the appeal of a decision issued in Adversary Proceeding No. 07-2005, by counsel, hereby respectfully designates the following items to be included in the record on appeal, all of which are submitted herewith as Exhibits hereto, and herein sets forth a statement of the issue it intends to present on appeal:

**ITEMS DESIGNATED**

1. Axis Reinsurance Company Secureexcess Policy RNN 506300 (the “Axis Policy”), attached hereto as Exhibit A.
2. U.S. Specialty Insurance Company Directors, Officers and Corporate Liability Insurance Policy 24-MGU-05-A10821, attached hereto as Exh. B.
3. The Adversary Action Complaint (without exhibits) filed by Axis on May 23, 2007, attached hereto as Exh. C.
4. The Complaint of Plaintiffs Grant Tone, Robert Trosten and Phillip Bennett against Axis Reinsurance Company, filed in Adversary Proceeding No. 07-2005-rdd on September 4, 2005, attached hereto as Exhibit D.
5. Memorandum in Support of Plaintiffs Tone Grant’s, Robert Trosten’s and Phillip Bennett’s Motion to Require Axis Reinsurance Company to Pay Their Defense Costs in Underlying Actions (without exhibits), filed September 5, 2007, attached hereto as Exh. E.

6. Axis Reinsurance Company's Memorandum in Opposition to Indicted Plaintiff's Application for a Preliminary Injunction Ordering Advancement of Defense Costs Prior to Adjudication of Coverage (without exhibits), filed September 10, 2007, attached hereto as Exh. F.

7. The transcript of August 30, 2007 oral argument on the Application for a Preliminary Injunction Ordering Advancement of Defense Costs and Motion to Dismiss, attached hereto as Exh. G.

8. The August 31, 2007 Order of Judge Robert D. Drain granting Defendants' Application for a Preliminary Injunction Ordering Advancement of Defense Costs by Axis, attached hereto as Exh. H.

9. The Form 8-K filed by Refco, Inc. (signed by Movant Klejna) with the United States Securities and Exchange Commission on October 11, 2005 (with exhibits), attached hereto as Exh. I.

10. The March 6, 2006 letter from Wayne E. Borgeest, Esq. to Pam Sylwestrzak, attached hereto as Exh. J.

11. The Warranty Letter signed by Bennett on behalf of all insureds under the Axis Policy on January 21, 2005, attached to hereto as Exh. K.

12. The transcript of the September 11, 2007 oral argument on the Application for a Preliminary Injunction Ordering Advancement of Defense Costs to Tone, Trosten and Bennett, attached hereto as Exh. L.

13. The September 12, 2007 Order of Judge Robert D. Drain granting the Indicted Plaintiffs' Application for a Preliminary Injunction Ordering Advancement of Defense Costs by Axis, attached hereto as Exh. M.

**ISSUE PRESENTED**

1. Was the Bankruptcy Court correct in granting the Application of Defendants Tone Grant, Robert Trosten and Phillip Bennett for a Preliminary Injunction Ordering Advancement by Axis Reinsurance Company of Defense Costs in Adversary Proceeding No. 07-2005-rdd, when the Axis Policy specifically states that Axis may only pay *covered* Defense Costs, and there is an issue at present as to whether any of the loss sought by these Defendants, including Defense Costs, is covered under the Axis Policy?

Dated: September 28, 2007

Signed:



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